



January 25, 2005

## HOUSE BILL No. 1039

DIGEST OF HB 1039 (Updated January 13, 2005 8:52 am - DI 69)

**Citations Affected:** IC 35-43; noncode.

**Synopsis:** Defrauding drug or alcohol screening tests. Makes it a Class B misdemeanor for an incarcerated person or a person under court supervision to interfere with or defraud, or to possess a device or substance intended to be used to interfere with or defraud, a drug or alcohol screening test.

**Effective:** July 1, 2005.

**Ayres, Ulmer, Lawson L, Foley**

January 4, 2005, read first time and referred to Committee on Courts and Criminal Code.  
January 13, 2005, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.  
January 24, 2005, referral to Committee on Ways and Means withdrawn.

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HB 1039—LS 6159/DI 107+



January 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1039

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-43-5-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The definitions  
3 set forth in this section apply throughout this chapter.

4 (b) "Claim statement" means an insurance policy, a document, or a  
5 statement made in support of or in opposition to a claim for payment  
6 or other benefit under an insurance policy, or other evidence of  
7 expense, injury, or loss. The term includes statements made orally, in  
8 writing, or as a computer generated document, including the following:

- 9 (1) An account.
- 10 (2) A bill for services.
- 11 (3) A bill of lading.
- 12 (4) A claim.
- 13 (5) A diagnosis.
- 14 (6) An estimate of property damages.
- 15 (7) A hospital record.
- 16 (8) An invoice.
- 17 (9) A notice.

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(10) A proof of loss.

(11) A receipt for payment.

(12) A physician's records.

(13) A prescription.

(14) A statement.

(15) A test result.

(16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

(1) to receive a coin, bill, or token made for that purpose; and

(2) in return for the insertion or deposit of a coin, bill, or token automatically:

(A) to offer, provide, or assist in providing; or

(B) to permit the acquisition of;

some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

**(g) "Drug or alcohol screening test" means a test that:**

**(1) is used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance; and**

**(2) is administered in the course of monitoring a person who is:**

**(A) incarcerated in a prison or jail;**

**(B) placed in a community corrections program;**

**(C) on probation or parole;**

**(D) participating in a court established or court ordered alcohol or drug treatment program; or**

**(E) on court ordered pretrial release.**

~~(g)~~ **(h)** "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

~~(h)~~ **(i)** "Identifying information" means information that identifies an individual, including an individual's:

(1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental

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entity;

(2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value; or

(B) initiate a transfer of funds.

(j) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).

(3) A written agreement entered into under IC 27-1-25.

(k) "Insurer" has the meaning set forth in IC 27-1-2-3(x).

(l) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(m) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(n) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(o) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes ~~poor relief~~, **township assistance**, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(p) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

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- 1 (E) audio cassette;
- 2 (F) video cassette; or
- 3 (G) film.

4 (2) Any other medium on which sounds or visual images are or  
5 can be recorded or otherwise stored.

6 (3) A copy or reproduction of an item in subdivision (1) or (2)  
7 that duplicates an original recording in whole or in part.

8 ~~(p)~~ (q) "Slug" means an article or object that is capable of being  
9 deposited in a coin machine as an improper substitute for a genuine  
10 coin, bill, or token.

11 ~~(r)~~ (r) "Utility" means a person who owns or operates, for public  
12 use, any plant, equipment, property, franchise, or license for the  
13 production, storage, transmission, sale, or delivery of electricity, water,  
14 steam, telecommunications, information, or gas.

15 ~~(s)~~ (s) "Written instrument" means a paper, a document, or other  
16 instrument containing written matter and includes money, coins,  
17 tokens, stamps, seals, credit cards, badges, trademarks, medals, retail  
18 sales receipts, labels or markings (including a universal product code  
19 (UPC) or another product identification code), or other objects or  
20 symbols of value, right, privilege, or identification.

21 SECTION 2. IC 35-43-5-18 IS ADDED TO THE INDIANA CODE  
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
23 1, 2005]: **Sec. 18. A person who knowingly or intentionally**  
24 **possesses a:**

25 (1) device; or

26 (2) substance;

27 **designed or intended to be used to interfere with or defraud a drug**  
28 **or alcohol screening test commits possession of a device or**  
29 **substance used to defraud a drug or alcohol screening test, a Class**  
30 **B misdemeanor.**

31 SECTION 3. IC 35-43-5-19 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2005]: **Sec. 19. A person who interferes with or defrauds or**  
34 **attempts to interfere with or defraud a drug or alcohol screening**  
35 **test by:**

36 (1) using a:

37 (A) device; or

38 (B) substance;

39 (2) substituting a human bodily substance that is tested in a  
40 drug or alcohol screening test; or

41 (3) adulterating a substance used in a drug or alcohol  
42 screening test;

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1 commits defrauding a drug or alcohol screening test, a Class B  
2 misdemeanor.

3 SECTION 4. [EFFECTIVE JULY 1, 2005] IC 35-43-5-18 and  
4 IC 35-43-5-19, both as added by this act, apply only to offenses  
5 committed after June 30, 2005.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1039, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 24, after "presence" insert "**or use**".

Page 2, delete lines 28 through 31, begin a new line double block indented and insert:

- "(A) incarcerated in a prison or jail;**
- (B) placed in a community corrections program;**
- (C) on probation or parole;**
- (D) participating in a court established or court ordered alcohol or drug treatment program; or**
- (E) on court ordered pretrial release."**

Page 4, line 24, after "used to" insert "**interfere with or**".

Page 4, line 29, after "who" insert "**interferes with or**".

Page 4, line 29, after "to" insert "**interfere with or**".

and when so amended that said bill do pass.

(Reference is to HB 1039 as introduced.)

ULMER, Chair

Committee Vote: yeas 10, nays 2.

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